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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,654	01/13/2004	Albert L. Hermans	4353	3923

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EXAMINER

PHILOGENE, HAISSA

ART UNIT	PAPER NUMBER
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2828

DATE MAILED: 07/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/757,654

Applicant(s)

HERMANS, ALBERT L.

Examiner

Haissa Philogene

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>01/13/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "sensing means" and "means for detecting a transition" (claims 1 and 4) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

Claim 1 is objected to because of the following informalities: in lines 12-13, "said emergency power source" lacks proper antecedent basis. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. As per claims 1 and 4, Applicant recites "sensing means for detecting power failure....means for detecting a transition from a switched ON to a switched OFF condition...". However, the specification is silent about any means being used for detection purposes, except to say that "intelligent building operating systems may incorporate sensors..." in page 2, line 12. The specification does not disclose how to make and use the recited means or what is being used to perform these functions, thereby raises doubt as to enablement. Claims 2, 3 and 5-8 are rejected by virtue of their dependencies on the independent claim.

***Claim Rejections - 35 USC § 102***

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4-6 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Pickering, Patent No. 6,628,083.

Pickering discloses in Figs. 1-2 an emergency lighting system for powering at least one lighting fixture with regular utility power (110Vac, 60Hz) and at least one emergency lighting fixture when regular utility power is interrupted, including: relay contact means (2A-2C, 2D-2F; 3A-3C, 3D-3F of relays 2, 3 respectively) for connecting operating power of 24V from a battery to the at least one emergency lighting fixture (12) via branch switch K3; sensing means (9) for detecting power failure in the regular utility power (110Vac, 60Hz) and in response actuating said relay contact means; said regular utility power (110Vac, 60Hz) including a switch leg (K3) connected to the at least one lighting fixture (12), and further including means (line detection circuit including detector 9 in dotted box of Fig.2 ) for detecting a transition from a switched on to a switched off condition on said switch leg (K3) and in response actuating said relay contact means to disconnect the regular utility power (110Vac, 60Hz) from the at least one emergency lighting fixture (12) , and connect said emergency power

source (24Vdc) to the at least one emergency lighting fixture (12) for a inherent brief test period before restoration of the regular utility power; further including an electronic assembly formed by line detection circuits in dotted box (see Fig.2) capable of combining and supporting said means for detecting a transition via detector 9, said relay contact means 2, 3, and said sensing means 9; wherein said electronic assembly is installable in one of said at least one lighting fixtures (see Col.3, lines 5-8); wherein said electronic assembly is installable in a typical junction box (see Col.3, lines 15-16); wherein said relay contact means comprises normally closed relay contacts (2, 3) connected between an emergency hot supply from the battery and an emergency switching leg (K3) connected to the at least one emergency lighting fixture (12).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pickering in view of Bavaro et al., Patent No. 4, 977,351.

As per claim 2, Pickering discloses the claimed invention substantially as explained above except a wall switch means connected between a hot leg of the regular utility power and said switch leg. Bavaro discloses in Fig.8 an emergency lighting system having a wall switch means (106) connected between a hot leg of a regular utility power (102) and a line 147 leading to switches (802, 804, 806) therefore readable

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as a switch leg. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to employ the wall switch as taught by Bavaro into the Pickering type system, because it would ensure the turning ON and the turning OFF control of lamps, thereby improving the efficacy of the system.

As per claim 7, Pickering in view of Bavaro discloses the claimed invention substantially as explained above. Pickering further discloses the line detection circuit or automatic assembly modified for mounting within the junction box. Pickering in view of Bavaro does not disclose the wall switch being housed in the junction box. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the wall switch in the junction box for transportation purposes, since it has been held that making an old device portable without producing any new and unexpected result involves only routine skill in that art.

As per claim 3, Pickering in view of Bavaro discloses the claimed invention substantially as explained above. Further, Pickering discloses said relay contact means (2, 3) reconnecting the regular utility power (120Vac, 60Hz) to be available to the at least one regular lighting fixture (100-400 or 12) and disconnect said emergency power source (battery) to the at least one emergency lighting fixture(100-400 or 12) whereafter the system is returned to operating on regular utility power (120Vac, 60Hz) in a switched off condition, i.e. allowing the resumption of normal operations (see Col.4, lines 13-26 and Col.2, lines 58-60).

**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ertz, III et al., Patent No. 5,910,689 ; Vore, Patent No. 3,809,917 ; Davis et al., Patent No. 4,486,689 ; Fields, Patent No. 5,365,145 ; Mandy, Patent No. 4,890,200; Chandler, Patent No. 3,660,714 .

**Correspondence**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haissa Philogene whose telephone number is (571) 272-1827. The examiner can normally be reached on 8:30 A.M.-6:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MinSun Harvey can be reached on (571)272-1835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

hp

Haissa Philogene  
Primary Examiner  
A.O. 2821 65 ✓